

Findings of Fact

1. The State Board of Education has both personal and subject matter jurisdiction in this cause.
2. All parties had the opportunity to participate in the stipulation of facts in this cause and all parties, except School City of Hammond, did cooperatively develop and stipulate the following facts:
 - A) That A.S., Jr., was indicted for murder on August 3, 1992. That the defendant is seventeen (17) years of age and waived from juvenile jurisdiction to criminal court pursuant to I.C. 31-6-2-1.1. That the defendant is currently incarcerated in the Newton County Jail, Kentland, Newton County, State of Indiana, without bond. That the defendant has yet to complete his high school education and desires to do so.
 - B) That the defendant's parent, A.S., Sr., resides at 7539 Magnolia Avenue, Hammond, Lake County, Indiana. That the public school district for a high school student residing at 7539 Magnolia Avenue, Hammond, Indiana, would be Gavit High School, Hammond, Indiana. That A.S., Jr., is not emancipated as that term is defined in I.C. 20-8.1-6.1-1.
 - C) That the Newton County Jail is located in Kentland, Indiana, and students with legal settlement in Kentland, Indiana, seeking a public education would attend South Newton High School.

Conclusions of Law

1. Any finding of fact that can be considered a conclusion of law is deemed a conclusion of law. Any conclusion of law that can be considered a finding of fact is deemed a finding of fact.
2. The Indiana Constitution charges the General Assembly to "provide, by law, for a general and uniform system of Common Schools,...equally open to all." Art. 8, sec. 1. The General Assembly, in enacting IC 20-8.1-3, the Compulsory School Attendance laws, specifically indicated its intent "to provide an efficient and speedy means of insuring that children receive a proper education whenever it is reasonably possible." IC 20-8.1-3-1. IC 20-8.1-3-2 indicates that compulsory attendance applies to each situation which involves "[a] person less than eighteen (18) years of age who is domiciled in Indiana."

It has been established by stipulation that A.S., Jr., is seventeen (17) years of age and is domiciled in Indiana. It is "reasonably possible" for A.S., Jr., to receive an education since he is currently receiving education services at the Newton County Jail for a period of time each day. Under the Indiana Constitution and the related statutory provisions of compulsory attendance, petitioner is entitled to a "proper" education unless his status as a pretrial detainee operates to exempt him from compulsory attendance or otherwise has extinguished his right to an education in Indiana.

3. There are statutory exceptions to IC 20-8.1-3, Compulsory School Attendance. Those are found at IC 20-8.1-3-17 (student withdraws with parental permission following exit interview), IC 20-8.1-3-18 (serving as a